

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA  
OFFICE OF THE SCHOOL BOARD ATTORNEY

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FILED  
2011 MAR -7 A 11:50  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

March 3, 2011

Errol H. Powell, Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-1550

**RE: Broward County School Board vs. Paul Kushch**  
**Before the State of Florida Division of Administrative Hearings**  
**Case No. 10-0628**

Dear Judge Powell:

For the Division's file, enclosed please a Final Order concerning the above-referenced matter, which was considered at the December 10, 2010 School Board meeting.

Sincerely,



Marylin Batista-McNamara

MBM:jcf

Enclosure

C: Eugene K. Pettis, Esq.  
Steve Rossi, Esq.  
Mr. Paul Kushch – (via email and certified US mail)  
Gracie Diaz, Associate Superintendent – Human Resources  
David Golt, Executive Director - Professional Standards/SIU  
Susan Rockelman, Director – Instructional Staffing

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BEFORE THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

2011 MAR -7 A 11:50

BROWARD COUNTY SCHOOL BOARD,

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

DOAH CASE NO: 10-0628

SBBC Agenda: 120710H01

Petitioner,

v.

PAUL KUSHCH,

Respondent.

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**FINAL ORDER**

This cause coming on to be heard before THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, at its meeting conducted on December 7, 2010, to consider (1) the Recommended Order filed on October 1, 2010 by the Honorable Errol Powell, Administrative Law Judge of the State of Florida, Division of Administrative Hearings, consisting of Findings of Fact, Conclusions of Law and a Recommendation; (2) Petitioner's Exceptions to the Recommended Order; and (3) Respondent's response to same, ore tenus.

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, having reviewed the entire record and transcript, and having heard oral argument presented by all counsel on behalf of the parties, and being fully advised in the Premises:

IT IS THEREUPON ORDERED AND ADJUDGED BY THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, that:

1. The SCHOOL BOARD OF BROWARD COUNTY, FLORIDA accepts the Petitioner's Exception as to the Finding of Fact in paragraph 10 of the Recommended Order, because the competent substantial evidence does not support that finding. Rather, the competent

substantial evidence shows that the Respondent did engage in further use of profanity. Accordingly, that portion of paragraph 10 stating that “no further use of profanity occurred,” is rejected.

2. The SCHOOL BOARD OF BROWARD COUNTY, FLORIDA accepts the Petitioner’s Exception to the Conclusions of Law set forth in paragraph 49 of the Recommended Order because the evidence set forth in paragraphs 8 and 19 of the Recommended Order more reasonably support a conclusion that the Respondent was off topic in the classroom and that his effectiveness in the school system was impaired by his misconduct and insubordination, as set forth in paragraphs 44 and 45. Accordingly, paragraph 49 of the Recommended Order is rejected in its entirety.

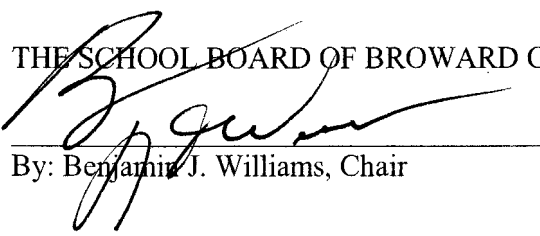
3. The SCHOOL BOARD OF BROWARD COUNTY, FLORIDA rejects the Administrative Law Judge’s recommendation for the School Board to enter a final order suspending Paul Kusch [sic] for six months and requiring his enrollment in professional skills enhancement programs and increases the Penalty to termination of employment, based on the determination by the SCHOOL BOARD that, a complete review of the record, including, but not limited to, the evidence referenced in paragraphs 6, 8, 9, 19, 20 and 21 warrant the Respondent’s termination from his position as a teacher based on his use of profanity and other inappropriate language (Exhibits 2, 3, 11)(Transcript pages 13-15, 106, 116, 119, 126-130, 136-138), insubordination (Exhibit 4)(Transcript pages 15-17), and his inability to keep his class on curriculum (Exhibit 4)(Transcript pages 17-18, 23-24).

4. The Administrative Law Judge's Findings of Fact and Conclusions of Law in the Recommended Order are adopted by The School Board of Broward County, Florida except as modified herein.

**Based on the foregoing Findings of Fact and Conclusions of Law, THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, hereby terminates the employment of PAUL KUSHCH with The School Board.**

DONE AND ORDERED in Fort Lauderdale, Broward County, Florida this 28<sup>th</sup> day of

FEBRUARY, 2011.

THE SCHOOL BOARD OF BROWARD COUNTY  
  
By: Benjamin J. Williams, Chair

Copies furnished to:  
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STATE OF FLORIDA, DIVISION OF  
ADMINISTRATIVE HEARINGS  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060

Mr. Paul Kushch  
607 Riverside Drive  
Fort Lauderdale, FL 33312

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**APPEAL OF FINAL ORDER**

THIS FINAL ORDER may be appealed by filing Notices of Appeal and a filing fee, as set forth in §120.68(2), Florida Statutes, and Rules 9.110(b) and (c), Florida Rules of Appellate Procedure, within thirty (30) days of the entry of this Final Order.

Filed in Official School Board Records the  
28<sup>th</sup> day of February, 2011.

  
Supervisor, Official School Board Records

**NOEMI GUTIERREZ**

